



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 9, 2005

Mr. Sean K. Proctor
Assistant District Attorney
27th Judicial District
P.O. Box 540
Belton, Texas 76513-0540

OR2005-03986

Dear Mr. Proctor:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the "Act"). Your request was assigned ID# 223797.

The Bell County District Attorney's Office (the "district attorney's office") received a request for all information concerning the conviction of a named individual. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.108, 552.111, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note that we have previously addressed all of the information that you have submitted to us for review in Open Records Letter No. 2002-3312 (2002). You do not inform us, nor are we aware, of any changes with regard to the law, facts, and circumstances on which Open Records Letter No. 2002-3312 was based. Accordingly, we conclude that the district attorney's office must rely on our decision in Open Records Letter No. 2002-3312 with respect to the information submitted to us for review.¹ See Gov't Code § 552.301(f); *see also* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where

¹We also note that Open Records Letter No. 2002-3312 indicates that the district attorney's office agreed at that time to release all publicly-filed court documents. Public information voluntarily made available by a governmental body must be made available to any person. Gov't Code § 552.007.

requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code

§ 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "Amanda Crawford". The signature is written in black ink and is positioned above the printed name and title.

Amanda Crawford
Assistant Attorney General
Open Records Division

AEC/sdk

Ref: ID# 223797

Enc. Submitted documents

c: Mr. Gary J. Cohen
The Cohen Law Firm
1307 West Avenue
Austin, Texas 78701
(w/o enclosures)